

#### IV. REMARKS

Claims 1-2, 7-12, 14-15, 17-22, 24, 39-40, 42-45 and 47 remain pending in this application.

The Examiner has objected to Claim 17. Claim 17 has been amended to overcome the objection.

Claims 1-2, 10-12, 15, 20-22, 39-40 and 45 have been rejected under 35 U.S.C. 102 as being anticipated by Cutlan. The Applicant respectfully disagrees.

Claim 1 calls for a straw cutting spiral cut craft tool with a housing sized and shaped for being handheld, and the cutting guide being disposed to substantially surround the hollow straw for supporting the straw to constrain the straw. Cutlan does not anticipate the features in claim 1.

It appears that the Examiner has improperly ignored the language in claim 1 reciting "a straw cutting spiral cut craft tool". This language may not be properly ignored even though it is located in the preamble of the claim. A straw cutting spiral cut craft tool is by its very nature structurally different from other spiral cut tools. As indicated by the name, a straw cutting spiral cut tool operates on straws. Although, this (i.e. the operation of the tool on straws) by itself is not of patentable importance, the structure of tools used to handle/cut straws is very different than the structure of other tools, and the structural differences are patentably important. The structural differences in the structure of the straw cutting spiral cut tool compared to other spiral and non-spiral cutting tools arise due to the different mechanical properties of straws in comparison to other materials, such as wooden posts, metal

pipes, plastic, or rubber piping or tubing, in which spiral cuts are formed. By way of example, straws have low structural strength and are readily subject to circumferential collapse. Straws are also generally not resiliently flexible, and thus are subject to immediate damage. The structure of the straw spiral cutting tool takes into account the inherent structural properties of straws. Accordingly, straw spiral cutting tools have cutting guides with a structure that provides supporting surfaces distributing loads of the straw in a manner that prevents the straw from being crushed. The structure of the straw spiral cutting tools avoids placing pinching loads or loads that tend to crush the fragile walls of the straw. In contrast, other cutting tools for materials such as wooden posts, metal/plastic/rubber/piping/tubing, have structures, such as shown in Cutlan, that rely on the significantly higher wall strength of the materials being cut. For instance, the cutting guide structure in Cutlan (even if reduced in size to handle straws) would be wholly unsuited for making straw spiral cuts because the guide surfaces would simply crush the straw making it impossible for the straw to be cut. The above noted differences are merely exemplary of structural differences between straw spiral cutting tools and other spiral cutting tools such as in Cutlan and Sauer, and numerous other structural differences exist. (Another example is that the straw spiral cutting tool is generally handheld while at the same time supportive of the straw.) Accordingly, the language in the preamble of claim 1 reciting "a straw cutting spiral cut tool" may not be properly ignored because it defines the structure of the tool. Further, Cutlan as noted above fails to disclose a straw cutting spiral cut tool as otherwise called for in claim 1. The workpiece n in Cutlan is located between roller i and opposing guide m and roller j. The vice like action of pincers t,e against the

workpiece would simply crush a straw. The tool in Cutlan is simply not a straw cutting spiral cut tool as otherwise called for in claim 1.

In addition, claim 1 calls for a housing sized and shaped for being handheld with the cutting guide being disposed to substantially surround the straw for supporting the straw. Cutlan does not disclose this. The tool in Cutlan has two opposing cutting guides m, g. Guide m has a seating surface located at the top of post n. Guide g has a seating surface located at the bottom of post n. There are no cutting guides between guides m, g, and guides m, g cannot reasonably be considered to surround the piece m. Moreover, the guides m, g clearly do not support piece n, in any way. On the contrary, contact between piece n and cutting guides n, g supports the tool on piece n. In lines 58-61, Cutlan discloses that to operate the tool, piece n is placed/mounted on a lathe. The guides m, g, support and guide the tool on the wood piece n. Hence, in Cutlan, it is the piece n that supports the tool, and not the tool that supports the wood piece. Cutlan fails to disclose the cutting guide being disposed to substantially surround the straw for supporting the straw as called for in claim 1. Indeed, none of the cited references, alone or combined, disclose or suggest the combination of a housing sized and shaped for being handheld and with the cutting guide being disposed to substantially surround the straw for supporting the straw as called for in claim 1. Claims 1-2, 7-10, 12 and 14 are patentable over the cited prior art and should be allowed. Claim 39 is similar to claim 1 as it also calls for the cutting guide being disposed to substantially surround the straw for supporting the straw. Accordingly, claims 39-40, and 42-45 are also patentable over the cited prior art and should be allowed.

Claim 11 calls for a secondary component adapted to further guide the straw in a different direction than the cutting guide. This is not so in Cutlan. As disclosed on lines 45-50, guide g in Cutlan maintains the cutter steady on the workpiece n and establishes the angle of the cut. Auxiliary guide m is set merely to follow in the groove o formed by the cutter to assist the travel of the tool (see lines 70-73). Hence, both the cutting guide g and auxiliary guide m guide the tool (it is noted that in Cutlan, the cutting guides guide the tool on the workpiece, and not the workpiece as otherwise called for in claim 11) along the same direction. This is not what is called for in claim 11. Claims 11 calls for the secondary component guiding the straw in a different direction than the cutting guide.

Claim 15 calls for the cutting guide guiding the hollow straw during insertion to the cutting edge, and the secondary component further guiding the straw during insertion to the cutting edge. Cutlan does not anticipate these features. As noted before, auxiliary guide m is set to follow in the groove o formed by the cutter e. Hence, auxiliary guide m makes contact with the piece n after the cutter e has made the spiral cut in the piece. Accordingly, the auxiliary guide m cannot possibly guide the piece during insertion to the cutting edge as called for in claim 15. Claims 15, 17, 22 and 24 are patentable over the cited prior art and should be allowed.

Claims 58-63 have been added further claiming features of the Applicant's invention as described in the specification and shown in the drawings.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in

proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Janik Marcovici  
Reg. No. 42,841

10/10/03

Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 10/10/03

Signature: Shawna Murphy  
Person Making Deposit